

November 6, 2018

Hon. Naomi Reice Buchwald
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Treasure Chest Themed Value Mail, Inc. v. David Morris International, Inc.*, 17 Civ. 0001 (NRB)

Your Honor:

I am counsel for the defendant in the above-captioned case. I write to object to the request by Plaintiff in this case for the Clerk's office to issue a Clerk's Certification of a Judgment to be registered in Another District to be picked up by Plaintiff. For the following reasons, I respectfully request that the Court strike the request (Dkt. #55) from the docket.

As Docket Entry #54 in this case reflects, Defendant appealed this case. After engaging in court-ordered mediation, the parties executed a stipulation withdrawing this appeal pursuant to Local Rule 42.1 without prejudice. The parties have not executed a settlement. Under the Local Rules of the Second Circuit, defendant may reinstated the appeal by the date specified in the stipulation, which is December 17, 2018.¹

Thus, Defendant objects to the Clerk's office issuing a Certification of a Judgment, which would require the Clerk of the Court to falsely state that "the time for appeal has expired." The time has not expired because the appeal may be reinstated pursuant to Local Rules 42.1 and 31.2 by writing to the Clerk of the Second Circuit on or before December 17, 2018.

Sincerely,
/s/ Brian Lehman
Brian Lehman
Lehman LG LLC
Counsel for Defendant

*Counsel of Record Served
by CM/ECF*

¹ The parties stipulated to December 15, 2018, which is a Saturday. Therefore, the date was automatically extended under the Federal Rules of Appellate Procedure. See Fed. R. App. P. 26(a)(1)(C) ("... if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.").